

Release
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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF MARCH 8, 1999

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#99-32 Armendariz v. Foundation Health Psychare Services, Inc., S075942. (A080224; 68 Cal.App.4th 374.) Petition for review after the Court of Appeal reversed an order in a civil action. This case concerns (1) whether a court can properly strike a limitation on damages as unconscionable but otherwise enforce an arbitration agreement claimed to be unconscionable and unenforceable in additional ways, and (2) whether an employee, who has agreed to an employment arbitration clause as a condition of employment, may be required to submit to arbitration a claim of employment discrimination under the Fair Employment & Housing Act (Gov. Code, §12900 et seq.).

#99-33 Asmus v. Pacific Bell, S074296. (9th Cir. No 97-16236; 159 F.3d 422.) Request by the United States Court of Appeals for the Ninth Circuit for the answer to a certified question of state law pursuant to rule 29.5 of the California Rules of Court. The question certified is "Once an employer's unilaterally adopted policy - which requires employees to be retained so long as a specified

(over)

condition does not occur - has become a part of the employment contract, may the employer thereafter unilaterally rescind the policy, even though the specified condition has not occurred?”

#99-34 People v. Fuentes, S075588. (F027938.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents an issue, concerning whether a juror was properly removed for refusing to follow the law, which is related to an issue before the court in People v. Metters, S069442. (See #98-70.)

#99-35 People v. Gonzalez, S075758. (B118680.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents an issue, concerning whether a defendant’s stipulation to the fact of a prior conviction that is an element of a crime may only be made after Boykin/Tahl advice and waivers, which is related to an issue before the court in People v. Thomas, S070580 (#98-93), and People v. Newman, S072560 (#98-142).

#99-36 In re Lucero L., S075342. (D030462; 68 Cal.App.4th 912.) Petition for review after the Court of Appeal affirmed orders in a dependency proceeding. This case concerns whether the admissibility at a dependency proceeding of statements attributed to a three-year-old in a social study is governed by Welfare and Institutions Code section 355 or by In re Cindy L., 17 Cal.4th 15, and whether the admission of the statements on the facts violated the father’s right to due process.

#99-37 Moore v. First Bank of San Luis Obispo S076239. (B117998; 68 Cal.App.4th 768.) Petition for review after the Court of Appeal the judgment in a civil action.

#99-38 Moshonov v. Walsh, S076103. (A076572.) Unpublished opinion. Petition for review after the Court of Appeal affirmed the judgment in a civil action.

Moore and Moshonov both are concerned with whether an arbitrator's failure to award attorney's fees to the prevailing party as required by the arbitration agreement is correctable under Code of Civil Procedure section 1286.6.

#99-39 People v. Moreno, S075834. (G021416; 68 Cal.App.4th 1198.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case presents an issue, concerning the definition of "active participation in a criminal street gang," which is related to issues before the court in People v. Castaneda, S069237 (see #98-64), and People v. Robles, S069306 (see # 98-65).

DISPOSITIONS

The following cases were dismissed and remanded to the Court of Appeal:

#97-184 Jones v. City of Berkeley Rent Stabilization Bd, S064321.

#98-130 People v. Meeks, S071792.

#98-135 People v. Wilburn, S072184.

The following cases were transferred to the Court of Appeal for reconsideration in light of People v. Anzalone, 19 Cal.4th 1074:

#98-112 People v. Rodarte, S070717.

#98-140 People v. Sliwo, S072214.

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